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FISCAL IMPACT STATEMENT

LS 7519
BILL NUMBER: HB 1004

NOTE PREPARED: Mar 1, 2005
BILL AMENDED: Feb 28, 2005

SUBJECT: Tax Amnesty Program.

FIRST AUTHOR: Rep. Turner
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill authorizes the Department of State Revenue to establish a tax amnesty program that provides for the waiver of unpaid interest, penalties, and fees upon payment of unpaid listed taxes during the amnesty period or in conformity with a payment plan established by the Department. The bill also provides that a riverboat gaming business may not use the amnesty program to avoid paying Adjusted Gross Income taxes owed under a recent Indiana Supreme Court decision. It doubles the penalty for a taxpayer that is eligible to participate in the amnesty program but fails to participate, and it provides certain exceptions. The bill requires the Department of State Revenue to provide the Legislative Council with an assessment of the impact of the tax amnesty program on tax collections and an analysis of the costs of administering the tax amnesty program.

Effective Date: Upon passage.

Explanation of State Expenditures: The bill would require the Department of State Revenue to prepare an electronic report for the Legislative Council assessing the impact of the tax amnesty program on tax collections and analyzing the administrative costs. There would be minimal administrative cost for the Department.

Additionally, effective tax amnesty programs have used marketing campaigns to reach affected taxpayers. For example, Kentucky appropriated $1 M for advertising its tax amnesty program and sent prefilled amnesty applications to taxpayers with tax liabilities. Of the applications received, 86% were prefilled. Also, states have found that employees of the revenue agency have difficulty performing routine duties in addition to working on the amnesty program, so they have needed to hire additional staff.

The bill does not appropriate funds for administrative costs, advertising, or for additional staff. The funds and resources required could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. On December 7, 2004, the Department of State Revenue had 1,182 authorized positions, and on December 27, 2004, the Department had 122 vacant positions with a salary cost of about $4.5 M. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: *Summary* - This bill requires the Department of State Revenue to establish a tax amnesty program for unpaid listed taxes. Tax amnesty programs target taxpayers who have never filed (nonfilers) and taxpayers who filed a return, but underreported income, misapplied credits or deductions, or did not file a subsequent return (accounts receivable). Therefore, the tax amnesty program would perform two functions: it would speed up collections of delinquent taxes, and it may encourage taxpayers who never filed before to file without penalty. Although the amnesty program may speed up the collection of revenue due, the state would forgo any potential collection of interest or penalties. The overall fiscal impact on the state revenues would depend on the number of nonfilers who file a return and the amount of interest, penalty, and fees that are abated. Also, because the penalties would double, the number of taxpayers who have a qualifying tax liability and do not take part in the amnesty will increase the revenue from the amnesty program.

When other states' recent tax amnesty program collections are compared with 2003 annual tax revenues, the programs collect, on average, 0.92% of total tax revenues. Indiana's 2003 tax revenues were $11,216 M. Using the average collection rate, a tax amnesty program in Indiana may collect $103 M. Based on the minimum and maximum collection rates experienced in other states, collections in Indiana may range from $20 M to $269 M. However, there are no data available to indicate what the actual collections may be in Indiana.

(Revised) *Tax Amnesty Program:* Under the bill, the Department of State Revenue (DOR) would adopt emergency rules to establish a tax amnesty program for taxes due and payable for a tax period ending before July 1, 2004. The program would not last more than eight weeks and would end before July 1, 2006. Applicable interest, penalties, collection fees, and costs would be excused on liabilities voluntarily paid or for which a payment program acceptable to DOR is established. Also, DOR would not seek civil or criminal prosecution of the taxpayer or issue an assessment, warrant, or demand notice against the taxpayer. However, if the taxpayer fails to pay the tax liability eligible for payment under the program, the liability would be subject to a doubling of penalties imposed or otherwise due. An exception to the doubling of penalties would exist for certain taxpayers who timely file an original tax appeal in the Tax Court, who have a legitimate hold on making the payment, who proves to the Commissioner that notice of the outstanding tax liability was never received, or who have established a payment plan with DOR. Additionally, a taxpayer would enter into an agreement that the taxpayer would not be eligible for any future amnesty program for the same listed tax. DOR would be required to enforce the agreement.

Under current law, DOR makes a proposed assessment of the amount of unpaid tax due based on the best information available to the Department. DOR sends a notice to a taxpayer of the proposed assessment, and the taxpayer has 60 days to pay the assessment or file a written protest. After this step there are numerous ways for the Department to collect taxes due. The following table shows tax liability sorted by the stage of collection.

Stage of Collection	Tax Liability	% of Total	Number of Liabilities
Protestable Initial Notice	$355,363,860	25.0%	100,505
Returned Check Notices	$698,175	0.0%	831
Last Notice to Taxpayer Prior to Warrant	$101,551,097	7.2%	69,971
Additional Notice to Taxpayer Prior to Warrant	$2,663,085	0.2%	1,462
Filings out to Clerk	$172,613,635	12.2%	264,649
To a Collection Sheriff	$184,708,522	13.0%	188,878
To a Collection Attorney	$165,489,458	11.7%	269,883
To a Collection Agency	$233,537,649	16.5%	387,119
Exhausted	$203,014,791	14.3%	258,735
Total	**$1,419,640,272**	**100.0%**	**1,542,033**

Revenue from receivables is known to the extent that a taxpayer has been audited. DOR also estimates the amount due from taxpayers who have not filed a current return, but who filed in the past. Tax liabilities are considered exhausted when they have been through all steps of the collections process. The Department estimates that collectible tax liability is $271,089,145. However, the estimate excludes many categories of tax liability, including tax liability that is in bankruptcy or litigation, is under protest, has a criminal investigation or Taxpayer Advocate Office hold, is exhausted, or is based only on the best information available. The four major sources of tax liability, based on collectible liabilities only, are Sales and Use Tax, Individual Adjusted Gross Income Tax (and withholding taxes), Corporate Adjusted Gross Income Tax, and Motor Carrier Surcharge Tax.

Current Indiana Tax Collection Program: Legislation enacted during the 2004 legislative session required DOR to publish the names of delinquent taxpayers that have been identified as having outstanding tax liabilities. The tax warrants published on this website are between two and ten years old since their first issuance, and the liability is more than $1,000. DOR reports collecting $3,409,346 from beginning of the program to date. Additionally, DOR uses methods such as sheriff and attorney collections, liens, offsets, and telephone pursuit. For the last fiscal year, using the above collection methods, DOR collected $212,907,877.

Background on Other States' Amnesty Programs: Between CY 2001 and 2004, 27 states have offered 30 tax amnesty programs. The table below shows details for tax amnesty programs for which final collection information is available.

State	Duration of Amnesty Period	Accounts Receivable Included	Collections (Millions)	Percent of 2003 Tax Revenue	Installment Arrangements Permitted
Arizona	8 weeks		$73.0	0.84%	Yes
Colorado	30 days		$18.4	0.28%	Yes
Connecticut	12 weeks		$109.0	1.15%	
Florida	12 weeks		$80.0	0.30%	
Illinois	6 weeks		$532.0	2.40%	
Kansas	8 weeks	Yes	$53.7	1.07%	
Kentucky	8 weeks	No	$100.0	1.20%	No
Louisiana	8 weeks	Yes	$173.1	2.32%	No
Maine	12 weeks		$37.6	1.39%	
Maryland	8 weeks	Yes	$39.2	0.36%	No
Massachusetts	8 weeks	Yes	$96.1	0.62%	Yes
Missouri	12 weeks	Yes	$76.4	0.89%	
Missouri	12 weeks	Yes	$20.0	0.23%	
Nevada	20 weeks		$7.3	0.18%	
New Hampshire	10 weeks	Yes	$13.5	0.69%	
New Jersey	8 weeks	Yes	$276.9	1.39%	
New York	10 weeks	Yes	$582.7	1.44%	Yes
North Dakota	16 weeks		$6.9	0.59%	
Ohio	12 weeks	No	$48.5	0.23%	No
South Carolina	6 weeks	Yes	$66.2	1.04%	
Virginia	8 weeks	Yes	$98.3	0.76%	
Based on information from the Federation of Tax Administrators, www.taxadmin.org/fta/rate/amnesty1.html and www.taxadmin.org/fta/rate/03taxbur.html.					

A sample of the states shows that, in general, the states received more income from a tax amnesty than anticipated when accounts receivable were strongly pursued. Experience would indicate that nonfilers make up from 1% to 5% of the total revenues when a previous amnesty has been offered.

Background Details on Illinois, Kentucky, and Connecticut Programs: The proposed tax amnesty program is similar to a program offered in Illinois which offered abatement of penalty and interest for taxpayers who (1) had a tax penalty due for a taxable period ending after June 30, 1983, and before July 1, 2002; (2) were not a party to a criminal investigation or civil or criminal litigation pending for a tax; and (3) made full payment of all tax liabilities during the amnesty period of October 1, 2003, to November 17, 2003. [Note: The regulations drafted by the Illinois revenue department deemed actions dismissed if the taxpayer executed an agreed order stipulating to judgment in favor of the Department and either paid the disputed liability, or, in a

Protest Act case, agreed to a dissolution of the injunction.] Unpaid tax liability eligible for the amnesty was subject to 200% of the applicable penalty if no payment was made. The amnesty did not require an application.

The department used general advertising, sent notices to more than 200,000 taxpayers who had identified tax liability, and worked with civic and business groups to create awareness. Additionally, notices were targeted to people under audit or on the audit schedule during the six months after the amnesty. The Illinois legislation allowed for retention by the department of 2% of the revenue collected to cover administrative costs.

Fiscal records for the first nine months of Illinois' FY 2004 show that the 6-week amnesty program received $513 M (or 4.7% of total cash receipts for the same nine-month period). Of the $513 M collected, $290 M went to the general fund and the rest went to local units or dedicated funds. Receipts from individual taxpayers represented 90% of all payments made and 5% of the total dollars collected. The receipts that went to the general fund came from the following sources.

Source	Percentage
Corporate income tax	52%
Sales tax	33%
Individual income tax	12%
Public utility tax	3%

Kentucky ran a tax amnesty program that required an application. The Kentucky program's penalties for nonparticipation were lower with a 25% penalty for unpaid taxes and 50% for nonfiling. The 2002 Kentucky Tax Amnesty Act generated approximately $107 M from collectible liabilities. As of June 2002, they reported $770.3 M in accounts receivables. Their tax amnesty program was implemented between August 1, 2002, and September 30, 2002, and included all tax periods after December 1, 1987, to December 1, 2001. Kentucky created two types of amnesty applications. Prefilled applications, which pulled tax liability and delinquency information from the Kentucky Revenue Cabinet's accounts, were mailed to 100,152 qualified taxpayers. A blank amnesty application was developed to accommodate other taxpayers. Kentucky utilized an aggressive advertising campaign to promote this program. As of November 20, 2002, they received 21,500 applications and collected $107 M in payments. Total audit revenues collected were $46 M (43%), accelerated revenue (collections on existing notices or on amended periods) totaled $30 M (28%), and $31 M (29%) was considered new revenue (revenue not expected or collectible in the foreseeable future). According to the Kentucky Revenue Cabinet, 86% of the collections came from business entities and 14% were from individual taxpayers. They also reported that 45% of the collections came from in-state residents and 55% came from taxpayers who resided out of state.

In 1990, Connecticut conducted an amnesty program which generated $54 M. In 1996, they conducted a second amnesty program which generated $46.2 M from 14,920 applications approved. They reported that 42.5% of the applications in 1996 were from new filers, 7.9% were from underreporters, and 49.6% were accounts receivables. Approximately $18 M was collected from sales and use taxes, $10.8 M from personal income taxes, and $10.5 M from corporate income taxes. As seen above, a 2003 tax amnesty collected $109M. Details from the last tax amnesty program are not available.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: Bob Walls, DOR, 232-2104; *Tax Delinquency Amnesty Act, FY 2004-11, Illinois Department of Revenue Informational Bulletin, August 2003;* Taran T. Ley, Illinois Legislative Research Unit, (217) 782-6851; Illinois Public Act 93-26; *Grant Thorton State Tax Alert October 10, 2003*, *The Illinois State Comptroller's Quarterly, Edition 11, April 2004*; Keith Staats; Rob Wysock, Connecticut Office of Fiscal Analysis, 860-240-0200; Mac Gilliam, Kentucky Revenue Cabinet, 502-564-4921; Hans Olofsson, Arizona Fiscal Agency, 602-542-5491; Jay Wortley, Michigan Senate Fiscal Agency, 517-373-2768; Federation of Tax Administrators, www.taxadmin.org.

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